

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EARNEST MARBLE,

Plaintiff,

V.

J. HAWKINS, et al.,

Defendants.

Case No. 6:21-cv-235-JDK-JDL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Earnest Marble, a Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

Despite Court orders instructing Plaintiff to either pay the statutory filing fee or submit a proper *in forma pauperis* application and to file an amended complaint, Plaintiff has neither complied nor responded in any way. On September 21, 2021, Judge Love issued a Report recommending that the Court dismiss this case without prejudice for failure to prosecute or obey an order of the Court. Docket No. 10. A copy of this Report was sent to Plaintiff, but no objections have been received.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court

examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 10) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED** without prejudice failure to prosecute or to obey an order of the Court. It is further **ORDERED** the statute of limitations is **SUSPENDED** for a period of 90 days following the date of entry of final judgment to prevent this dismissal from acting as a dismissal with prejudice by reason of limitations.

So **ORDERED** and **SIGNED** this **22nd** day of **November, 2021**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE